

HOUSE BILL No. 1371

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-30-24.2.

Synopsis: Civil liability with respect to certain fuels. Provides that, with certain exceptions, a person is not liable for bodily injury or property damage that may result if a self-service purchaser introduces into a motor vehicle, a motor vehicle engine, a nonroad engine, a nonroad vehicle, or nonroad equipment a transportation fuel that is: (1) not approved for the motor vehicle, a motor vehicle engine, a nonroad engine, a nonroad vehicle, or nonroad equipment; or (2) not recommended by the warranty applying to the motor vehicle, motor vehicle engine, nonroad engine, nonroad vehicle, or nonroad equipment. Provides that a person is not liable for bodily injury or property damage that results if an underground storage tank, underground storage tank system, or associated dispensing equipment that is used to store or dispense a particular transportation fuel is not compatible with that transportation fuel if the tank, system, or equipment has been determined in one of certain ways to be compatible with the transportation fuel.

Effective: July 1, 2014.

Cherry

January 15, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1371

A BILL FOR AN ACT to amend the Indiana Code concerning civil law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-30-24.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]:

4 **Chapter 24.2. Immunity Related to Domestic Fuels**

5 **Sec. 1. As used in this chapter, "associated dispensing**
6 **equipment" means equipment that is:**

7 (1) **intended for the storage and dispensing of any**
8 **transportation fuel at a stationary facility that dispenses the**
9 **transportation fuel into any fuel tank of any motor vehicle,**
10 **motor vehicle engine, nonroad vehicle, nonroad engine, or**
11 **nonroad equipment; and**

12 (2) **subject to regulation under 29 CFR 1910.106 and 29 CFR**
13 **1926.152.**

14 **Sec. 2. For the purposes of this chapter, "compatible" has the**
15 **meaning set forth in 40 CFR 280.12.**

16 **Sec. 3. As used in this chapter, "motor vehicle" has the meaning**



1 set forth in Section 216 of the federal Clean Air Act, 42 U.S.C.
2 7550.

3 Sec. 4. As used in this chapter, "motor vehicle engine" means an
4 engine in a motor vehicle.

5 Sec. 5. As used in this chapter, "nonroad engine" has the
6 meaning set forth in Section 216 of the federal Clean Air Act, 42
7 U.S.C. 7550.

8 Sec. 6. As used in this chapter, "nonroad equipment" means any
9 recreational, construction, industrial, agricultural, logging,
10 residential, commercial lawn and garden, or other equipment that
11 is powered by a nonroad engine.

12 Sec. 7. As used in this chapter, "nonroad vehicle" has the
13 meaning set forth in Section 216 of the federal Clean Air Act, 42
14 U.S.C. 7550.

15 Sec. 8. As used in this chapter, "person" includes the following:

- 16 (1) An individual.
- 17 (2) A corporation.
- 18 (3) A company.
- 19 (4) An association.
- 20 (5) A firm.
- 21 (6) A partnership.
- 22 (7) A society.
- 23 (8) A joint stock company.
- 24 (9) A governmental entity, including:
 - 25 (A) the state;
 - 26 (B) a county; and
 - 27 (B) a political subdivision (as defined in IC 36-1-2-13).

28 Sec. 9. As used in this chapter, "provider of financial assurance"
29 means an entity that provides financial assurance to an owner or
30 operator of an underground storage tank through one (1) of the
31 mechanisms listed in 40 CFR 280.95 through 40 CFR 280.103,
32 including a guarantor, an insurer, a risk retention group, a surety,
33 the issuer of a letter of credit, the issuer of a state-required
34 mechanism, and a state.

35 Sec. 10. As used in this chapter, "transportation fuel" means
36 any fuel or a fuel additive that is authorized, after January 1, 2010,
37 by the EPA administrator or under any federal law, for use in:

- 38 (1) a motor vehicle;
- 39 (2) a motor vehicle engine
- 40 (3) a nonroad vehicle;
- 41 (4) a nonroad engine; or
- 42 (5) nonroad equipment.



1 **Sec. 11.** As used in this chapter, "underground storage tank"
2 has the meaning set forth in IC 13-11-2-241.

3 **Sec. 12.** As used in this chapter, "underground storage tank
4 system" means an underground storage tank and:

- 5 (1) connected underground piping;
6 (2) underground ancillary equipment; and
7 (3) a containment system, if any.

8 **Sec. 13. (a)** A person is not liable for bodily injury or property
9 damage that results if a self-service purchaser introduces into a
10 motor vehicle, a motor vehicle engine, a nonroad vehicle, a
11 nonroad engine, or nonroad equipment a transportation fuel:

- 12 (1) not approved for the motor vehicle, motor vehicle engine,
13 nonroad vehicle, nonroad engine, or nonroad equipment
14 under Section 211 of the federal Clean Air Act, 42 U.S.C.
15 7545; or
16 (2) not recommended by the warranty of the manufacturer of
17 the motor vehicle, motor vehicle engine, nonroad engine,
18 nonroad vehicle, or nonroad equipment.

19 **(b)** Subsection (a) does not apply to a person who:

- 20 (1) sells any transportation fuel and does not comply with the
21 misfueling regulations of the administrator of the U.S.
22 Environmental Protection Agency set forth in 40 CFR 80.1501
23 et seq.; or
24 (2) intentionally misfuels.

25 **Sec. 14.** A transportation fuel is not considered a defective
26 product if it does not violate a control or prohibition concerning a
27 characteristic or component of the transportation fuel that is
28 imposed by the administrator of the U.S. Environmental Protection
29 Agency under Section 211 of the federal Clean Air Act, 42 U.S.C.
30 7545.

31 **Sec. 15. (a)** A person is not liable for bodily injury or property
32 damage that results if an underground storage tank, an
33 underground storage tank system, or associated dispensing
34 equipment that is used to store or dispense a transportation fuel is
35 not compatible with that transportation fuel if the tank, system, or
36 equipment has been determined to be compatible with the
37 transportation fuel under subsection (c) or (d).

38 **(b)** A provider of financial assurance may not deny payment for
39 a claim on the basis that an underground storage tank, an
40 underground storage tank system, or associated dispensing
41 equipment that was used to store or dispense a transportation fuel
42 was not compatible with that transportation fuel if the tank,



1 system, or equipment has been determined to be compatible with
2 the transportation fuel under subsection (c) or (d).

3 (c) If an applicable law or regulation requires that an
4 underground storage tank, an underground storage tank system,
5 or associated dispensing equipment used to store or dispense a
6 transportation fuel be listed by a nationally recognized testing
7 laboratory and the requirement addresses material compatibility
8 for the substance to be stored or dispensed from the tank, system,
9 or equipment, the manufacturer of the tank, system, or equipment
10 shall be provided the opportunity to satisfy the requirement by
11 self-certifying the tank, system, or equipment under the following
12 terms:

13 (1) The manufacturer must be required to provide empirical
14 information that:

15 (A) is substantially similar to the data used by a nationally
16 recognized testing laboratory; and

17 (B) would result in an approval of the tank, system, or
18 equipment if requested by the equipment owner,
19 regulatory body, insurance agency, or other materially
20 affected party.

21 (2) The manufacturer must sign a letter specifying:

22 (A) that the tank, system, or equipment is compatible with
23 the specific fuels or the range of biofuel blends; and

24 (B) that the compatibility of the tank, system, or equipment
25 is substantiated by the empirical information referred to
26 in subdivision (1).

27 (3) The letter must be sent:

28 (A) to the Petroleum Equipment Institute for publication
29 in the Petroleum Equipment Institute's "Biofuels
30 Compatibility Library"; or

31 (B) to a similar clearing house for publication in a similar
32 publication.

33 (d) If an underground storage tank, an underground storage
34 tank system, or associated dispensing equipment used to store or
35 dispense a transportation fuel is not required by an applicable law
36 or regulation to be listed by a nationally recognized testing
37 laboratory, the manufacturer's approval of the tank, system, or
38 equipment is an acceptable method of demonstrating that the tank,
39 system, or equipment is compatible with the transportation fuel for
40 the purposes of subsections (a) and (b).

41 (e) Any underground storage tank, an underground storage
42 tank system, or associated dispensing equipment that, as of July 1,



1 **2014, has been listed by a nationally recognized testing laboratory**
2 **as compatible with a transportation fuel is considered compatible**
3 **with that transportation fuel for purposes of this section.**

